



January 27, 2006

HOUSE BILL No. 1156

DIGEST OF HB 1156 (Updated January 25, 2006 6:20 pm - DI 92)

Citations Affected: IC 6-1.1; IC 33-28; IC 33-33; IC 33-37; noncode.

Synopsis: Various provisions concerning courts. Limits the amount of an excessive property tax levy for new court operating expenses to the estimate by the taxing unit operating the court of the court's expenses for its first year of operation. Lists the costs that qualify for the excessive levy. Requires jury commissioners to use only lists approved by the supreme court to determine the names of prospective jurors to be included in a jury pool. Removes provisions that allow the commissioners to select names from various other sources. Repeals definitions of "voter registration lists". Adds a second judge to the Jackson superior court beginning January 1, 2007. Increases the number of judges on the Marion superior court from: (1) 32 to 34 judges beginning January 1, 2007; and (2) 34 to 36 judges beginning January 1, 2009. Increases the total number of magistrates that a majority of the Marion superior court may appoint from: (1) four to six until January 1, 2008; and (2) six to eight beginning January 1, 2008. (The introduced version of this bill was prepared by the commission on courts.) Raises the following court fees by \$1: (1) criminal; (2) infraction and ordinance; (3) juvenile; (4) civil; (5) small claims; and (6) probate. (The introduced version of this bill was prepared by the commission on courts.)

Effective: Upon passage; July 1, 2006.

Richardson

January 5, 2006, read first time and referred to Committee on Courts and Criminal Code.
January 17, 2006, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to House Rule 127.
January 26, 2006, amended, reported — Do Pass.

HB 1156—LS 6603/DI 69+



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January 27, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

HOUSE BILL No. 1156

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-18.5-13, AS AMENDED BY P.L.73-2005,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 13. With respect to an appeal filed under
4 section 12 of this chapter, the local government tax control board may
5 recommend that a civil taxing unit receive any one (1) or more of the
6 following types of relief:

7 (1) Permission to the civil taxing unit to increase its levy in excess
8 of the limitations established under section 3 of this chapter, if in
9 the judgment of the local government tax control board the
10 increase is reasonably necessary due to increased costs of the civil
11 taxing unit resulting from annexation, consolidation, or other
12 extensions of governmental services by the civil taxing unit to
13 additional geographic areas or persons.

14 (2) Permission to the civil taxing unit to increase its levy in excess
15 of the limitations established under section 3 of this chapter, if the
16 local government tax control board finds that the civil taxing unit
17 needs the increase to meet the civil taxing unit's share of the costs

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of operating a court established by statute enacted after December 31, 1973. Before recommending such an increase, the local government tax control board shall consider all other revenues available to the civil taxing unit that could be applied for that purpose. The maximum aggregate levy increases that the local government tax control board may recommend for a particular court equals the civil taxing unit's **estimate of the unit's** share of the costs of operating a court for the first full calendar year in which it is in existence. **For purposes of this subdivision, costs of operating a court include:**

(A) the cost of personal services (including fringe benefits);

(B) the cost of supplies; and

(C) any other cost directly related to the operation of the court.

(3) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the quotient determined under STEP SIX of the following formula is equal to or greater than one and three-hundredths (1.03):

STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the sum of the civil taxing unit's total assessed value of all taxable property and the total assessed value of property tax deductions in the unit under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular calendar year, divided by the sum of the civil taxing unit's total assessed value of all taxable property and the total assessed value of property tax deductions in the unit under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

STEP FOUR: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the sum of the total assessed value of all taxable property in all counties and the total assessed value of property tax deductions in all counties under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular

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calendar year, divided by the sum of the total assessed value of all taxable property in all counties and the total assessed value of property tax deductions in all counties under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the calendar year immediately preceding the particular calendar year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Divide the STEP THREE amount by the STEP FIVE amount.

The civil taxing unit may increase its levy by a percentage not greater than the percentage by which the STEP THREE amount exceeds the percentage by which the civil taxing unit may increase its levy under section 3 of this chapter based on the assessed value growth quotient determined under section 2 of this chapter.

(4) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to pay the costs of furnishing fire protection for the civil taxing unit through a volunteer fire department. For purposes of determining a township's need for an increased levy, the local government tax control board shall not consider the amount of money borrowed under IC 36-6-6-14 during the immediately preceding calendar year. However, any increase in the amount of the civil taxing unit's levy recommended by the local government tax control board under this subdivision for the ensuing calendar year may not exceed the lesser of:

(A) ten thousand dollars (\$10,000); or

(B) twenty percent (20%) of:

(i) the amount authorized for operating expenses of a volunteer fire department in the budget of the civil taxing unit for the immediately preceding calendar year; plus

(ii) the amount of any additional appropriations authorized during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department under this chapter; minus

(iii) the amount of money borrowed under IC 36-6-6-14 during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department.

(5) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter in order to raise revenues for pension payments and contributions

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the civil taxing unit is required to make under IC 36-8. The maximum increase in a civil taxing unit's levy that may be recommended under this subdivision for an ensuing calendar year equals the amount, if any, by which the pension payments and contributions the civil taxing unit is required to make under IC 36-8 during the ensuing calendar year exceeds the product of one and one-tenth (1.1) multiplied by the pension payments and contributions made by the civil taxing unit under IC 36-8 during the calendar year that immediately precedes the ensuing calendar year. For purposes of this subdivision, "pension payments and contributions made by a civil taxing unit" does not include that part of the payments or contributions that are funded by distributions made to a civil taxing unit by the state.

(6) Permission to increase its levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the township's township assistance ad valorem property tax rate is less than one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation; and

(B) the township needs the increase to meet the costs of providing township assistance under IC 12-20 and IC 12-30-4. The maximum increase that the board may recommend for a township is the levy that would result from an increase in the township's township assistance ad valorem property tax rate of one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation minus the township's ad valorem property tax rate per one hundred dollars (\$100) of assessed valuation before the increase.

(7) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) the increase has been approved by the legislative body of the municipality with the largest population where the civil taxing unit provides public transportation services; and

(B) the local government tax control board finds that the civil taxing unit needs the increase to provide adequate public transportation services.

The local government tax control board shall consider tax rates and levies in civil taxing units of comparable population, and the effect (if any) of a loss of federal or other funds to the civil taxing unit that might have been used for public transportation purposes. However, the increase that the board may recommend under this

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subdivision for a civil taxing unit may not exceed the revenue that would be raised by the civil taxing unit based on a property tax rate of one cent (\$0.01) per one hundred dollars (\$100) of assessed valuation.

(8) Permission to a civil taxing unit to increase the unit's levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the civil taxing unit is:

(i) a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000);

(ii) a city having a population of more than fifty-five thousand (55,000) but less than fifty-nine thousand (59,000);

(iii) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);

(iv) a city having a population of more than fifteen thousand four hundred (15,400) but less than sixteen thousand six hundred (16,600); or

(v) a city having a population of more than seven thousand (7,000) but less than seven thousand three hundred (7,300); and

(B) the increase is necessary to provide funding to undertake removal (as defined in IC 13-11-2-187) and remedial action (as defined in IC 13-11-2-185) relating to hazardous substances (as defined in IC 13-11-2-98) in solid waste disposal facilities or industrial sites in the civil taxing unit that have become a menace to the public health and welfare.

The maximum increase that the local government tax control board may recommend for such a civil taxing unit is the levy that would result from a property tax rate of six and sixty-seven hundredths cents (\$0.0667) for each one hundred dollars (\$100) of assessed valuation. For purposes of computing the ad valorem property tax levy limit imposed on a civil taxing unit under section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular year does not include that part of the levy imposed under this subdivision. In addition, a property tax increase permitted under this subdivision may be imposed for only two (2) calendar years.

(9) Permission for a county:

(A) having a population of more than eighty thousand (80,000) but less than ninety thousand (90,000) to increase the county's

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levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the county needs the increase to meet the county's share of the costs of operating a jail or juvenile detention center, including expansion of the facility, if the jail or juvenile detention center is opened after December 31, 1991;

(B) that operates a county jail or juvenile detention center that is subject to an order that:

(i) was issued by a federal district court; and

(ii) has not been terminated;

(C) that operates a county jail that fails to meet:

(i) American Correctional Association Jail Construction Standards; and

(ii) Indiana jail operation standards adopted by the department of correction; or

(D) that operates a juvenile detention center that fails to meet standards equivalent to the standards described in clause (C) for the operation of juvenile detention centers.

Before recommending an increase, the local government tax control board shall consider all other revenues available to the county that could be applied for that purpose. An appeal for operating funds for a jail or a juvenile detention center shall be considered individually, if a jail and juvenile detention center are both opened in one (1) county. The maximum aggregate levy increases that the local government tax control board may recommend for a county equals the county's share of the costs of operating the jail or a juvenile detention center for the first full calendar year in which the jail or juvenile detention center is in operation.

(10) Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township needs the increase so that the property tax rate to pay the costs of furnishing fire protection for a township, or a portion of a township, enables the township to pay a fair and reasonable amount under a contract with the municipality that is furnishing the fire protection. However, for the first time an appeal is granted the resulting rate increase may not exceed fifty percent (50%) of the difference between the rate imposed for fire protection within the municipality that is providing the fire protection to the township and the township's rate. A township is required to appeal a second time for an increase under this subdivision if the township wants

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to further increase its rate. However, a township's rate may be increased to equal but may not exceed the rate that is used by the municipality. More than one (1) township served by the same municipality may use this appeal.

(11) Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township has been required, for the three (3) consecutive years preceding the year for which the appeal under this subdivision is to become effective, to borrow funds under IC 36-6-6-14 to furnish fire protection for the township or a part of the township. However, the maximum increase in a township's levy that may be allowed under this subdivision is the least of the amounts borrowed under IC 36-6-6-14 during the preceding three (3) calendar years. A township may elect to phase in an approved increase in its levy under this subdivision over a period not to exceed three (3) years. A particular township may appeal to increase its levy under this section not more frequently than every fourth calendar year.

(12) Permission to a city having a population of more than twenty-nine thousand (29,000) but less than thirty-one thousand (31,000) to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) an appeal was granted to the city under this section to reallocate property tax replacement credits under IC 6-3.5-1.1 in 1998, 1999, and 2000; and

(B) the increase has been approved by the legislative body of the city, and the legislative body of the city has by resolution determined that the increase is necessary to pay normal operating expenses.

The maximum amount of the increase is equal to the amount of property tax replacement credits under IC 6-3.5-1.1 that the city petitioned under this section to have reallocated in 2001 for a purpose other than property tax relief.

SECTION 2. IC 33-28-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The jury commissioners shall immediately, from the names of legal voters and citizens of the United States on the latest tax duplicate and the tax schedules of the county, lists approved by the supreme court that may be used to select prospective jurors, examine for the purpose of determining the sex, age, and identity of prospective jurors, and proceed to select and deposit, in a box furnished by the clerk for that purpose, the names, written on separate slips of paper of uniform

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shape, size, and color, of twice as many persons as will be required by law for grand and petit jurors in the courts of the county, for all the terms of the courts, to begin with the following calendar year.

(b) Each selection shall be made as nearly as possible in proportion to the population of each county commissioner's district. In making the selections, the jury commissioners shall in all things observe their oaths. The jury commissioners shall not select the name of any person who is to them known to be interested in or has case pending that may be tried by a jury to be drawn from the names so selected.

(c) The jury commissioners shall deliver the locked box to the clerk of the circuit court, after having deposited into the box the names as directed under this section. The key shall be retained by one (1) of the jury commissioners, who may not be an adherent of the same political party as the clerk.

(d) In a county containing a consolidated city, the jury commissioners may, upon an order made by the judge of the circuit court and entered in the records of the circuit court of the county, make the selections and deposits required under this section monthly instead of annually. The jury commissioners may omit the personal examination of prospective jurors ~~the examination of voters lists~~ and make selection without reference to county commissioners' districts. The judge of the circuit court in a county containing a consolidated city may do the following:

(1) Appoint a secretary for the jury commissioners, and sufficient stenographic aid and clerical help to properly perform the duties of the jury commissioners.

(2) Fix the salaries of the commissioners, the secretary, and stenographic and clerical employees.

(3) Provide office quarters and necessary supplies for the jury commissioners and their employees.

The expenses incurred under this subsection shall be paid for from the treasury of the county upon the order of the court.

(e) Subject to appropriations made by the county fiscal body, the jury commissioners may use a computerized jury selection system. However, the system used for the selection system must be fair and may not violate the rights of persons with respect to the impartial and random selection of prospective jurors. The jurors selected under the computerized jury selection system must be eligible for selection under this chapter. The commissioners shall deliver the names of the individuals selected to the clerk of the circuit court. The commissioners shall observe their oath in all activities taken under this subsection.

~~(f) The jury commissioners may supplement voter registration lists~~

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and tax schedules under subsection (a) with names from lists of persons residing in the county that the jury commissioners may designate as necessary to obtain a cross-section of the population of each county commissioner's district. The lists designated by the jury commissioners under this subsection must be used for the selection of jurors throughout the entire county.

(g) The supplemental sources designated under subsection (f) may consist of such lists as those of utility customers, persons filing income tax returns, motor vehicle registrations, city directories, telephone directories, and driver's licenses. These supplemental lists may not be substituted for the voter registration list. The jury commissioners may not draw more names from supplemental sources than are drawn from the voter registration lists and tax schedules.

SECTION 3. IC 33-28-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. As used in this chapter, "master list" means:

- (1) a serially printed list;
- (2) a magnetic tape;
- (3) an Addressograph file;
- (4) a punched card file;
- (5) a computer record; or
- (6) another form of record determined by the supervising judge to be consistent with this chapter;

that fosters the policy and protects the rights secured by this chapter **and contains all current, up-to-date voter registration lists for each precinct in the county, and is supplemented by names derived from other sources identified under this chapter: the current lists approved by the supreme court that may be used to select prospective jurors.**

SECTION 4. IC 33-28-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) The jury commissioner shall compile and maintain a master list consisting of all the voter registration lists for the county, supplemented with names from other lists of persons resident in the county that the supreme court shall periodically designate as necessary to obtain the broadest cross-section of the county, having determined that use of supplemental lists is feasible. The supreme court may designate supplemental lists for use by the courts periodically in a manner that fosters the policy and protects the rights secured by this chapter. Supplemental sources may consist of lists of:

- (1) utility customers;
- (2) property taxpayers; and
- (3) persons filing income tax returns, motor vehicle registrations;

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city directories, telephone directories, and driver's licenses. Supplemental lists may not be substituted for the voter registration list: **lists approved by the supreme court that may be used to select prospective jurors.** In drawing names from supplemental lists, **compiling the master list,** the jury commissioner shall avoid duplication of names.

(b) A person who has custody, possession, or control of any of the lists making up or used in compiling the master list ~~including those designated under subsection (a) by the supreme court as supplementary sources of names,~~ shall furnish the master list to the jury commissioner for inspection, reproduction, and copying at all reasonable times.

(c) When a copy of a list maintained by a public official is furnished, only the actual cost of the copy may be charged to the courts.

(d) The master list of names is open to the public for examination as a public record. However, the source of names and any information other than the names contained in the source is confidential.

SECTION 5. IC 33-28-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. As used in this chapter, "master list" means ~~all current, up-to-date voter registration lists for each precinct in the county supplemented with names from other sources prescribed pursuant to this chapter;~~ **the current lists approved by the supreme court that may be used to select prospective jurors** in order to foster the policy and protect the rights secured by this chapter. The master list may be in the form of a serially printed list, a magnetic tape, an Addressograph file, punched cards, or such other form considered by the chief judge to be consistent with this chapter.

SECTION 6. IC 33-28-6-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) The jury commissioner shall compile and maintain a master list consisting of ~~all the voter registration lists for the county; supplemented with names from other lists of persons resident in the county that the supreme court shall periodically designate as necessary to obtain the broadest cross-section of the county; having determined that use of the supplemental lists is feasible. The supreme court shall exercise the authority to designate supplemental lists periodically in order to foster the policy and protect the rights secured by this article. The supplemental sources may include lists of utility customers, property taxpayers, and persons filing income tax returns; motor vehicle registrations; city directories, telephone directories, and driver's licenses.~~ Supplemental lists may not be substituted for the voter registration list: **lists approved by the supreme court that may be**

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used to select prospective jurors. In drawing names from supplemental lists, compiling the master list, the jury commissioner shall avoid duplication of names.

(b) Whoever has custody, possession, or control of any of the lists making up or used in compiling the master list including those designated under subsection (a) by the supreme court as supplementary sources of names, shall furnish the list to the jury commissioner for inspection, reproduction, and copying at all reasonable times.

(c) When a copy of a list maintained by a public official is furnished, only the actual cost of the copy may be charged to the court.

(d) The master list of names shall be open to the public for examination as a public record, except that the source of names and any information other than the names contained in that source may not be public information.

SECTION 7. IC 33-33-36-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The Jackson superior court has ~~one (1)~~ judge **two (2) judges** who shall hold sessions in Seymour.

SECTION 8. IC 33-33-49-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) There is established a superior court in Marion County. The court consists of: ~~thirty-two (32)~~

(1) thirty-four (34) judges beginning January 1, 2007, and ending December 31, 2008; and

(2) thirty-six (36) judges beginning January 1, 2009.

(b) To be qualified to serve as a judge of the court, a person must be, at the time a declaration of candidacy or a petition of nomination under IC 3-8-6 is filed:

(1) a resident of Marion County; and

(2) an attorney who has been admitted to the bar of Indiana for at least five (5) years.

(c) During the term of office, a judge of the court must remain a resident of Marion County.

SECTION 9. IC 33-33-49-13, AS AMENDED BY P.L.2-2005, SECTION 93, AND AS AMENDED BY P.L.58-2005, SECTION 35, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) Each judge of the court shall be elected for a term of six (6) years that begins January 1 after the year of the judge's election and continues through December 31 in the sixth year. The judge shall hold office for the six (6) year term or until the judge's successor is elected and qualified. A candidate for judge shall run at large for the office of judge of the court and not as a

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1 candidate for judge of a particular room or division of the court.

2 (b) Beginning with the primary election held in ~~1996~~ **2008** and
3 every six (6) years thereafter, a political party may nominate not more
4 than ~~eight (8)~~ **nine (9)** candidates for judge of the court. Beginning
5 with the primary election held in ~~2000~~ **2006** and every six (6) years
6 thereafter, a political party may nominate not more than ~~nine (9)~~ **ten**
7 **(10)** candidates for judge of the court. The candidates shall be voted on
8 at the general election. Other candidates may qualify under IC 3-8-6 to
9 be voted on at the general election.

10 (c) The names of the party candidates nominated and properly
11 certified to the Marion County election board, along with the names of
12 other candidates who have qualified, shall be placed on the ballot at the
13 general election in the form prescribed by ~~IC 3-11-2~~ *IC 3-11*.
14 Beginning with the ~~1996~~ **2008** general election and every six (6) years
15 thereafter, persons eligible to vote at the general election may vote for
16 ~~fifteen (15)~~ **seventeen (17)** candidates for judge of the court. Beginning
17 with the ~~2000~~ **2006** general election and every six (6) years thereafter,
18 persons eligible to vote at the general election may vote for ~~seventeen~~
19 **(17) nineteen (19)** candidates for judge of the court.

20 (d) The candidates for judge of the court receiving the highest
21 number of votes shall be elected to the vacancies. The names of the
22 candidates elected as judges of the court shall be certified to the county
23 election board as provided by law.

24 SECTION 10. IC 33-33-49-32, AS AMENDED BY P.L.33-2005,
25 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 UPON PASSAGE]: Sec. 32. (a) In addition to the magistrate appointed
27 under section 31 of this chapter, the judges of the superior court may,
28 by a vote of a majority of the judges, appoint: ~~four (4)~~

29 **(1) six (6) full-time magistrates under IC 33-23-5 until January**
30 **1, 2008, not more than three (3) of whom may be from the**
31 **same political party; and**

32 **(2) eight (8) full-time magistrates under IC 33-23-5 after**
33 **December 31, 2007, not more than four (4) of whom may be**
34 **from the same political party.**

35 ~~(b) Not more than two (2) of the magistrates appointed under this~~
36 ~~section may be of the same political party.~~

37 ~~(c)~~ **(b)** The magistrates continue in office until removed by the vote
38 of a majority of the judges of the court.

39 ~~(d)~~ **(c)** A party to a superior court proceeding that has been assigned
40 to a magistrate appointed under this section may request that an elected
41 judge of the superior court preside over the proceeding instead of the
42 magistrate to whom the proceeding has been assigned. A request under

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1 this subsection must be in writing and must be filed with the court:

2 (1) in a civil case, not later than:

3 (A) ten (10) days after the pleadings are closed; or

4 (B) thirty (30) days after the case is entered on the
5 chronological case summary, in a case in which the defendant
6 is not required to answer; or

7 (2) in a criminal case, not later than ten (10) days after the
8 omnibus date.

9 Upon a timely request made under this subsection by either party, the
10 magistrate to whom the proceeding has been assigned shall transfer the
11 proceeding back to the superior court judge.

12 SECTION 11. IC 33-37-4-1, AS AMENDED BY P.L.176-2005,
13 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2006]: Sec. 1. (a) For each action that results in a felony
15 conviction under IC 35-50-2 or a misdemeanor conviction under
16 IC 35-50-3, the clerk shall collect from the defendant a criminal costs
17 fee of one hundred ~~twenty~~ **twenty-one** dollars ~~(\$120): (\$121).~~

18 (b) In addition to the criminal costs fee collected under this section,
19 the clerk shall collect from the defendant the following fees if they are
20 required under IC 33-37-5:

21 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or
22 IC 33-37-5-4).

23 (2) A marijuana eradication program fee (IC 33-37-5-7).

24 (3) An alcohol and drug services program user fee
25 (IC 33-37-5-8(b)).

26 (4) A law enforcement continuing education program fee
27 (IC 33-37-5-8(c)).

28 (5) A drug abuse, prosecution, interdiction, and correction fee
29 (IC 33-37-5-9).

30 (6) An alcohol and drug countermeasures fee (IC 33-37-5-10).

31 (7) A child abuse prevention fee (IC 33-37-5-12).

32 (8) A domestic violence prevention and treatment fee
33 (IC 33-37-5-13).

34 (9) A highway work zone fee (IC 33-37-5-14).

35 (10) A deferred prosecution fee (IC 33-37-5-17).

36 (11) A document storage fee (IC 33-37-5-20).

37 (12) An automated record keeping fee (IC 33-37-5-21).

38 (13) A late payment fee (IC 33-37-5-22).

39 (14) A sexual assault victims assistance fee (IC 33-37-5-23).

40 (15) A public defense administration fee (IC 33-37-5-21.2).

41 (16) A judicial insurance adjustment fee (IC 33-37-5-25).

42 (17) A judicial salaries fee (IC 33-37-5-26).

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(18) A court administration fee (IC 33-37-5-27).

(19) A DNA sample processing fee (IC 33-37-5-26.2).

(c) Instead of the criminal costs fee prescribed by this section, the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-39-1-8 requires payment of those fees by the accused person. The pretrial diversion program fee is:

(1) an initial user's fee of ~~fifty~~ **fifty-one** dollars (~~\$50~~); (**\$51**); and

(2) a monthly user's fee of ~~ten~~ **eleven** dollars (~~\$10~~) (**\$11**) for each month that the person remains in the pretrial diversion program.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, not later than thirty (30) days after the fees are collected:

(1) The pretrial diversion fee.

(2) The marijuana eradication program fee.

(3) The alcohol and drug services program user fee.

(4) The law enforcement continuing education program fee.

The auditor or fiscal officer shall deposit fees transferred under this subsection in the appropriate user fee fund established under IC 33-37-8.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk shall distribute the partial payment of the criminal costs fee as follows:

(1) The clerk shall apply the partial payment to general court costs.

(2) If there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the remainder of the partial payment for deposit in the appropriate county user fee fund.

(3) If there is money remaining after distribution under subdivision (2), the clerk shall distribute the remainder of the partial payment for deposit in the state user fee fund.

(4) If there is money remaining after distribution under subdivision (3), the clerk shall distribute the remainder of the partial payment to any other applicable user fee fund.

(5) If there is money remaining after distribution under subdivision (4), the clerk shall apply the remainder of the partial payment to any outstanding fines owed by the defendant.

SECTION 12. IC 33-37-4-2, AS AMENDED BY P.L.176-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

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1 (1) for a violation constituting an infraction; or
 2 (2) for a violation of an ordinance of a municipal corporation (as
 3 defined in IC 36-1-2-10);
 4 the clerk shall collect from the defendant an infraction or ordinance
 5 violation costs fee of ~~seventy~~ **seventy-one** dollars ~~(\$70): (\$71).~~

6 (b) In addition to the infraction or ordinance violation costs fee
 7 collected under this section, the clerk shall collect from the defendant
 8 the following fees, if they are required under IC 33-37-5:

9 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or
 10 IC 33-37-5-4).

11 (2) An alcohol and drug services program user fee
 12 (IC 33-37-5-8(b)).

13 (3) A law enforcement continuing education program fee
 14 (IC 33-37-5-8(c)).

15 (4) An alcohol and drug countermeasures fee (IC 33-37-5-10).

16 (5) A highway work zone fee (IC 33-37-5-14).

17 (6) A deferred prosecution fee (IC 33-37-5-17).

18 (7) A jury fee (IC 33-37-5-19).

19 (8) A document storage fee (IC 33-37-5-20).

20 (9) An automated record keeping fee (IC 33-37-5-21).

21 (10) A late payment fee (IC 33-37-5-22).

22 (11) A public defense administration fee (IC 33-37-5-21.2).

23 (12) A judicial insurance adjustment fee (IC 33-37-5-25).

24 (13) A judicial salaries fee (IC 33-37-5-26).

25 (14) A court administration fee (IC 33-37-5-27).

26 (15) A DNA sample processing fee (IC 33-37-5-26.2).

27 (c) The clerk shall transfer to the county auditor or fiscal officer of
 28 the municipal corporation the following fees, not later than thirty (30)
 29 days after the fees are collected:

30 (1) The alcohol and drug services program user fee
 31 (IC 33-37-5-8(b)).

32 (2) The law enforcement continuing education program fee
 33 (IC 33-37-5-8(c)).

34 (3) The deferral program fee (subsection e).

35 The auditor or fiscal officer shall deposit the fees in the user fee fund
 36 established under IC 33-37-8.

37 (d) The defendant is not liable for any ordinance violation costs fee
 38 in an action if all the following apply:

39 (1) The defendant was charged with an ordinance violation
 40 subject to IC 33-36.

41 (2) The defendant denied the violation under IC 33-36-3.

42 (3) Proceedings in court against the defendant were initiated

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under IC 34-28-5 (or IC 34-4-32 before its repeal).

(4) The defendant was tried and the court entered judgment for the defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:

(1) an initial user's fee not to exceed ~~fifty-two~~ **fifty-three** dollars ~~(\$52); (\$53);~~ and

(2) a monthly user's fee not to exceed ~~ten~~ **eleven** dollars ~~(\$10)~~ **(\$11)** for each month the person remains in the deferral program.

(f) The fees prescribed by this section are costs for purposes of IC 34-28-5-5 and may be collected from a defendant against whom judgment is entered. Any penalty assessed is in addition to costs.

SECTION 13. IC 33-37-4-3, AS AMENDED BY P.L.176-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The clerk shall collect a juvenile costs fee of one hundred ~~twenty~~ **twenty-one** dollars ~~(\$120)~~ **(\$121)** for each action filed under any of the following:

(1) IC 31-34 (children in need of services).

(2) IC 31-37 (delinquent children).

(3) IC 31-14 (paternity).

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A marijuana eradication program fee (IC 33-37-5-7).

(3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).

(4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).

(5) An alcohol and drug countermeasures fee (IC 33-37-5-10).

(6) A document storage fee (IC 33-37-5-20).

(7) An automated record keeping fee (IC 33-37-5-21).

(8) A late payment fee (IC 33-37-5-22).

(9) A public defense administration fee (IC 33-37-5-21.2).

(10) A judicial insurance adjustment fee (IC 33-37-5-25).

(11) A judicial salaries fee (IC 33-37-5-26).

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(12) A court administration fee (IC 33-37-5-27).

(13) A DNA sample processing fee (IC 33-37-5-26.2).

(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees not later than thirty (30) days after they are collected:

(1) The marijuana eradication program fee (IC 33-37-5-7).

(2) The alcohol and drug services program user fee (IC 33-37-5-8(b)).

(3) The law enforcement continuing education program fee (IC 33-37-5-8(c)).

The auditor or fiscal officer shall deposit the fees in the appropriate user fee fund established under IC 33-37-8.

SECTION 14. IC 33-37-4-4, AS AMENDED BY P.L.176-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) The clerk shall collect a civil costs fee of one hundred **one** dollars (~~\$100~~) (**\$101**) from a party filing a civil action. This subsection does not apply to the following civil actions:

(1) Proceedings to enforce a statute defining an infraction under IC 34-28-5 (or IC 34-4-32 before its repeal).

(2) Proceedings to enforce an ordinance under IC 34-28-5 (or IC 34-4-32 before its repeal).

(3) Proceedings in juvenile court under IC 31-34 or IC 31-37.

(4) Proceedings in paternity under IC 31-14.

(5) Proceedings in small claims court under IC 33-34.

(6) Proceedings in actions described in section 7 of this chapter.

(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A support and maintenance fee (IC 33-37-5-6).

(3) A document storage fee (IC 33-37-5-20).

(4) An automated record keeping fee (IC 33-37-5-21).

(5) A public defense administration fee (IC 33-37-5-21.2).

(6) A judicial insurance adjustment fee (IC 33-37-5-25).

(7) A judicial salaries fee (IC 33-37-5-26).

(8) A court administration fee (IC 33-37-5-27).

(9) A service fee (IC 33-37-5-28).

SECTION 15. IC 33-37-4-5, AS AMENDED BY P.L.2-2005, SECTION 104, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) For each small claims action the clerk shall collect from the party filing the action a small claims

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costs fee of ~~thirty-five~~ **thirty-six** dollars (~~\$35~~). (**\$36**). However, a clerk may not collect a small claims costs fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A document storage fee (IC 33-37-5-20).

(3) An automated record keeping fee (IC 33-37-5-21).

(4) A judicial administration fee (IC 33-37-5-21.2).

(5) A judicial insurance adjustment fee (IC 33-37-5-25).

(c) This section expires July 1, 2005.

SECTION 16. IC 33-37-4-6, AS AMENDED BY P.L.176-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) For each small claims action, the clerk shall collect the following fees:

(1) From the party filing the action:

(A) a small claims costs fee of ~~thirty-five~~ **thirty-six** dollars (~~\$35~~); (**\$36**); and

(B) a small claims service fee of ten dollars (\$10) for each named defendant.

(2) From any party adding a defendant, a small claims service fee of ten dollars (\$10) for each defendant added in the action.

However, a clerk may not collect a small claims costs fee or small claims service fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee and small claims service fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A document storage fee (IC 33-37-5-20).

(3) An automated record keeping fee (IC 33-37-5-21).

(4) A public defense administration fee (IC 33-37-5-21.2).

(5) A judicial insurance adjustment fee (IC 33-37-5-25).

(6) A judicial salaries fee (IC 33-37-5-26).

(7) A court administration fee (IC 33-37-5-27).

SECTION 17. IC 33-37-4-7, AS AMENDED BY P.L.176-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) Except as provided under subsection (c), the clerk shall collect from the party filing the action a probate costs fee of

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one hundred ~~twenty~~ **twenty-one** dollars (~~\$120~~) (**\$121**) for each action filed under any of the following:

- (1) IC 6-4.1-5 (determination of inheritance tax).
- (2) IC 29 (probate).
- (3) IC 30 (trusts and fiduciaries).

(b) In addition to the probate costs fee collected under subsection (a), the clerk shall collect from the party filing the action the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A document storage fee (IC 33-37-5-20).
- (3) An automated record keeping fee (IC 33-37-5-21).
- (4) A public defense administration fee (IC 33-37-5-21.2).
- (5) A judicial insurance adjustment fee (IC 33-37-5-25).
- (6) A judicial salaries fee (IC 33-37-5-26).
- (7) A court administration fee (IC 33-37-5-27).

(c) A clerk may not collect a court costs fee for the filing of the following exempted actions:

- (1) Petition to open a safety deposit box.
- (2) Filing an inheritance tax return, unless proceedings other than the court's approval of the return become necessary.
- (3) Offering a will for probate under IC 29-1-7, unless proceedings other than admitting the will to probate become necessary.

SECTION 18. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 33-28-5-8; IC 33-28-6-8.

SECTION 19. [EFFECTIVE JULY 1, 2006] (a) **Notwithstanding IC 33-33-36-3, as amended by this act, the Jackson superior court is not expanded to two (2) judges until January 1, 2007.**

(b) **The governor shall appoint a person under IC 3-13-6-1(f) to serve as the initial judge added to the Jackson superior court by IC 33-33-36-3, as amended by this act.**

(c) **The term of the initial judge appointed under subsection (b) begins January 1, 2007, and ends December 31, 2008.**

(d) **The initial election of the judge of the Jackson superior court added by IC 33-33-36-3, as amended by this act, is the general election on November 4, 2008. The term of the initially elected judge begins January 1, 2009.**

(e) **This SECTION expires January 2, 2009.**

SECTION 20. [EFFECTIVE UPON PASSAGE] **IC 6-1.1-18.5-13, as amended by this act, applies only to ad valorem property taxes first due and payable after December 31, 2006.**

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SECTION 21. [EFFECTIVE UPON PASSAGE] (a) The thirty-third and thirty-fourth judges of the Marion superior court added by IC 33-33-49-6, as amended by this act, shall be elected at the general election on November 7, 2006, for terms beginning January 1, 2007, and ending December 31, 2012. At the primary election held in 2006, a political party may nominate not more than nine (9) candidates for judge of the court. A political party may nominate one (1) additional candidate to be elected judge of the court at the 2006 general election using the candidate vacancy provisions under IC 3-13-1 for a total of not more than ten (10) candidates for judge of the court. Other candidates may qualify under IC 3-8-6 to be voted on at the general election. The candidates shall be voted on at the general election. At the 2006 general election, persons eligible to vote at the general election may vote for nineteen (19) candidates for judge of the court.

(b) The thirty-fifth and thirty-sixth judges of the Marion superior court added by IC 33-33-49-6, as amended by this act, shall be elected at the general election on November 4, 2008, for terms beginning January 1, 2009, and ending December 31, 2014. At the primary election held in 2008, a political party may nominate not more than nine (9) candidates for judge of the court. Other candidates may qualify under IC 3-8-6 to be voted on at the general election. The candidates shall be voted on at the general election. At the 2008 general election, persons eligible to vote at the general election may vote for seventeen (17) candidates for judge of the court.

(c) This act may not be construed to affect the term of any judge serving on the Marion superior court on the effective date of this act.

(d) This SECTION expires January 2, 2015.

SECTION 22. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1156, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 11, delete lines 15 through 27.

Page 11, delete lines 32 through 42.

Page 12, delete line 1.

Page 12, delete lines 4 through 30.

Page 13, delete lines 2 through 35.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1156 as introduced.)

ULMER, Chair

Committee Vote: yeas 9, nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1156, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 11, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 8. IC 33-33-49-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) There is established a superior court in Marion County. The court consists of: ~~thirty-two (32)~~

(1) thirty-four (34) judges beginning January 1, 2007, and ending December 31, 2008; and

(2) thirty-six (36) judges beginning January 1, 2009.

(b) To be qualified to serve as a judge of the court, a person must be, at the time a declaration of candidacy or a petition of nomination under IC 3-8-6 is filed:

(1) a resident of Marion County; and

(2) an attorney who has been admitted to the bar of Indiana for at least five (5) years.

(c) During the term of office, a judge of the court must remain a resident of Marion County.

HB 1156—LS 6603/DI 69+



SECTION 9. IC 33-33-49-13, AS AMENDED BY P.L.2-2005, SECTION 93, AND AS AMENDED BY P.L.58-2005, SECTION 35, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) Each judge of the court shall be elected for a term of six (6) years that begins January 1 after the year of the judge's election and continues through December 31 in the sixth year. The judge shall hold office for the six (6) year term or until the judge's successor is elected and qualified. A candidate for judge shall run at large for the office of judge of the court and not as a candidate for judge of a particular room or division of the court.

(b) Beginning with the primary election held in ~~1996~~ **2008** and every six (6) years thereafter, a political party may nominate not more than ~~eight (8)~~ **nine (9)** candidates for judge of the court. Beginning with the primary election held in ~~2000~~ **2006** and every six (6) years thereafter, a political party may nominate not more than ~~nine (9)~~ **ten (10)** candidates for judge of the court. The candidates shall be voted on at the general election. Other candidates may qualify under IC 3-8-6 to be voted on at the general election.

(c) The names of the party candidates nominated and properly certified to the Marion County election board, along with the names of other candidates who have qualified, shall be placed on the ballot at the general election in the form prescribed by ~~IC 3-11-2~~ *IC 3-11*. Beginning with the ~~1996~~ **2008** general election and every six (6) years thereafter, persons eligible to vote at the general election may vote for ~~fifteen (15)~~ **seventeen (17)** candidates for judge of the court. Beginning with the ~~2000~~ **2006** general election and every six (6) years thereafter, persons eligible to vote at the general election may vote for ~~seventeen (17)~~ **nineteen (19)** candidates for judge of the court.

(d) The candidates for judge of the court receiving the highest number of votes shall be elected to the vacancies. The names of the candidates elected as judges of the court shall be certified to the county election board as provided by law.

SECTION 10. IC 33-33-49-32, AS AMENDED BY P.L.33-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. (a) In addition to the magistrate appointed under section 31 of this chapter, the judges of the superior court may, by a vote of a majority of the judges, appoint: ~~four (4)~~

(1) six (6) full-time magistrates under IC 33-23-5 until January 1, 2008, not more than three (3) of whom may be from the same political party; and

(2) eight (8) full-time magistrates under IC 33-23-5 after December 31, 2007, not more than four (4) of whom may be

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from the same political party.

(b) Not more than two (2) of the magistrates appointed under this section may be of the same political party.

(b) The magistrates continue in office until removed by the vote of a majority of the judges of the court.

(c) A party to a superior court proceeding that has been assigned to a magistrate appointed under this section may request that an elected judge of the superior court preside over the proceeding instead of the magistrate to whom the proceeding has been assigned. A request under this subsection must be in writing and must be filed with the court:

(1) in a civil case, not later than:

(A) ten (10) days after the pleadings are closed; or

(B) thirty (30) days after the case is entered on the chronological case summary, in a case in which the defendant is not required to answer; or

(2) in a criminal case, not later than ten (10) days after the omnibus date.

Upon a timely request made under this subsection by either party, the magistrate to whom the proceeding has been assigned shall transfer the proceeding back to the superior court judge.

SECTION 11. IC 33-37-4-1, AS AMENDED BY P.L.176-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred ~~twenty~~ **twenty-one** dollars ~~(\$120): (\$121).~~

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A marijuana eradication program fee (IC 33-37-5-7).

(3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).

(4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).

(5) A drug abuse, prosecution, interdiction, and correction fee (IC 33-37-5-9).

(6) An alcohol and drug countermeasures fee (IC 33-37-5-10).

(7) A child abuse prevention fee (IC 33-37-5-12).

(8) A domestic violence prevention and treatment fee (IC 33-37-5-13).

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- (9) A highway work zone fee (IC 33-37-5-14).
- (10) A deferred prosecution fee (IC 33-37-5-17).
- (11) A document storage fee (IC 33-37-5-20).
- (12) An automated record keeping fee (IC 33-37-5-21).
- (13) A late payment fee (IC 33-37-5-22).
- (14) A sexual assault victims assistance fee (IC 33-37-5-23).
- (15) A public defense administration fee (IC 33-37-5-21.2).
- (16) A judicial insurance adjustment fee (IC 33-37-5-25).
- (17) A judicial salaries fee (IC 33-37-5-26).
- (18) A court administration fee (IC 33-37-5-27).
- (19) A DNA sample processing fee (IC 33-37-5-26.2).

(c) Instead of the criminal costs fee prescribed by this section, the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-39-1-8 requires payment of those fees by the accused person. The pretrial diversion program fee is:

- (1) an initial user's fee of ~~fifty~~ **fifty-one** dollars (~~\$50~~); (**\$51**); and
- (2) a monthly user's fee of ~~ten~~ **eleven** dollars (~~\$10~~) (**\$11**) for each month that the person remains in the pretrial diversion program.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, not later than thirty (30) days after the fees are collected:

- (1) The pretrial diversion fee.
- (2) The marijuana eradication program fee.
- (3) The alcohol and drug services program user fee.
- (4) The law enforcement continuing education program fee.

The auditor or fiscal officer shall deposit fees transferred under this subsection in the appropriate user fee fund established under IC 33-37-8.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk shall distribute the partial payment of the criminal costs fee as follows:

- (1) The clerk shall apply the partial payment to general court costs.
- (2) If there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the remainder of the partial payment for deposit in the appropriate county user fee fund.
- (3) If there is money remaining after distribution under subdivision (2), the clerk shall distribute the remainder of the partial payment for deposit in the state user fee fund.
- (4) If there is money remaining after distribution under

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subdivision (3), the clerk shall distribute the remainder of the partial payment to any other applicable user fee fund.

(5) If there is money remaining after distribution under subdivision (4), the clerk shall apply the remainder of the partial payment to any outstanding fines owed by the defendant.

SECTION 12. IC 33-37-4-2, AS AMENDED BY P.L.176-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

- (1) for a violation constituting an infraction; or
- (2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10);

the clerk shall collect from the defendant an infraction or ordinance violation costs fee of ~~seventy~~ **seventy-one** dollars (~~\$70~~). (**\$71**).

(b) In addition to the infraction or ordinance violation costs fee collected under this section, the clerk shall collect from the defendant the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (3) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (4) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (5) A highway work zone fee (IC 33-37-5-14).
- (6) A deferred prosecution fee (IC 33-37-5-17).
- (7) A jury fee (IC 33-37-5-19).
- (8) A document storage fee (IC 33-37-5-20).
- (9) An automated record keeping fee (IC 33-37-5-21).
- (10) A late payment fee (IC 33-37-5-22).
- (11) A public defense administration fee (IC 33-37-5-21.2).
- (12) A judicial insurance adjustment fee (IC 33-37-5-25).
- (13) A judicial salaries fee (IC 33-37-5-26).
- (14) A court administration fee (IC 33-37-5-27).
- (15) A DNA sample processing fee (IC 33-37-5-26.2).

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, not later than thirty (30) days after the fees are collected:

- (1) The alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (2) The law enforcement continuing education program fee (IC 33-37-5-8(c)).

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(3) The deferral program fee (subsection e).

The auditor or fiscal officer shall deposit the fees in the user fee fund established under IC 33-37-8.

(d) The defendant is not liable for any ordinance violation costs fee in an action if all the following apply:

- (1) The defendant was charged with an ordinance violation subject to IC 33-36.
- (2) The defendant denied the violation under IC 33-36-3.
- (3) Proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (4) The defendant was tried and the court entered judgment for the defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:

- (1) an initial user's fee not to exceed ~~fifty-two~~ **fifty-three** dollars ~~(\$52); (\$53);~~ and
- (2) a monthly user's fee not to exceed ~~ten~~ **eleven** dollars ~~(\$10)~~ **(\$11)** for each month the person remains in the deferral program.

(f) The fees prescribed by this section are costs for purposes of IC 34-28-5-5 and may be collected from a defendant against whom judgment is entered. Any penalty assessed is in addition to costs.

SECTION 13. IC 33-37-4-3, AS AMENDED BY P.L.176-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The clerk shall collect a juvenile costs fee of one hundred ~~twenty~~ **twenty-one** dollars ~~(\$120)~~ **(\$121)** for each action filed under any of the following:

- (1) IC 31-34 (children in need of services).
- (2) IC 31-37 (delinquent children).
- (3) IC 31-14 (paternity).

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A marijuana eradication program fee (IC 33-37-5-7).
- (3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).

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- (4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (5) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (6) A document storage fee (IC 33-37-5-20).
- (7) An automated record keeping fee (IC 33-37-5-21).
- (8) A late payment fee (IC 33-37-5-22).
- (9) A public defense administration fee (IC 33-37-5-21.2).
- (10) A judicial insurance adjustment fee (IC 33-37-5-25).
- (11) A judicial salaries fee (IC 33-37-5-26).
- (12) A court administration fee (IC 33-37-5-27).
- (13) A DNA sample processing fee (IC 33-37-5-26.2).

(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees not later than thirty (30) days after they are collected:

- (1) The marijuana eradication program fee (IC 33-37-5-7).
- (2) The alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (3) The law enforcement continuing education program fee (IC 33-37-5-8(c)).

The auditor or fiscal officer shall deposit the fees in the appropriate user fee fund established under IC 33-37-8.

SECTION 14. IC 33-37-4-4, AS AMENDED BY P.L.176-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) The clerk shall collect a civil costs fee of one hundred **one** dollars (~~\$100~~) (**\$101**) from a party filing a civil action. This subsection does not apply to the following civil actions:

- (1) Proceedings to enforce a statute defining an infraction under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (2) Proceedings to enforce an ordinance under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (3) Proceedings in juvenile court under IC 31-34 or IC 31-37.
- (4) Proceedings in paternity under IC 31-14.
- (5) Proceedings in small claims court under IC 33-34.
- (6) Proceedings in actions described in section 7 of this chapter.

(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A support and maintenance fee (IC 33-37-5-6).
- (3) A document storage fee (IC 33-37-5-20).
- (4) An automated record keeping fee (IC 33-37-5-21).

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- (5) A public defense administration fee (IC 33-37-5-21.2).
- (6) A judicial insurance adjustment fee (IC 33-37-5-25).
- (7) A judicial salaries fee (IC 33-37-5-26).
- (8) A court administration fee (IC 33-37-5-27).
- (9) A service fee (IC 33-37-5-28).

SECTION 15. IC 33-37-4-5, AS AMENDED BY P.L.2-2005, SECTION 104, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) For each small claims action the clerk shall collect from the party filing the action a small claims costs fee of ~~thirty-five~~ **thirty-six** dollars (~~\$35~~). (**\$36**). However, a clerk may not collect a small claims costs fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A document storage fee (IC 33-37-5-20).
- (3) An automated record keeping fee (IC 33-37-5-21).
- (4) A judicial administration fee (IC 33-37-5-21.2).
- (5) A judicial insurance adjustment fee (IC 33-37-5-25).

(c) This section expires July 1, 2005.

SECTION 16. IC 33-37-4-6, AS AMENDED BY P.L.176-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) For each small claims action, the clerk shall collect the following fees:

- (1) From the party filing the action:
 - (A) a small claims costs fee of ~~thirty-five~~ **thirty-six** dollars (~~\$35~~); (**\$36**); and
 - (B) a small claims service fee of ten dollars (\$10) for each named defendant.

- (2) From any party adding a defendant, a small claims service fee of ten dollars (\$10) for each defendant added in the action.

However, a clerk may not collect a small claims costs fee or small claims service fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee and small claims service fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A document storage fee (IC 33-37-5-20).

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- (3) An automated record keeping fee (IC 33-37-5-21).
- (4) A public defense administration fee (IC 33-37-5-21.2).
- (5) A judicial insurance adjustment fee (IC 33-37-5-25).
- (6) A judicial salaries fee (IC 33-37-5-26).
- (7) A court administration fee (IC 33-37-5-27).

SECTION 17. IC 33-37-4-7, AS AMENDED BY P.L.176-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) Except as provided under subsection (c), the clerk shall collect from the party filing the action a probate costs fee of one hundred ~~twenty~~ **twenty-one** dollars (~~\$120~~) (**\$121**) for each action filed under any of the following:

- (1) IC 6-4.1-5 (determination of inheritance tax).
- (2) IC 29 (probate).
- (3) IC 30 (trusts and fiduciaries).

(b) In addition to the probate costs fee collected under subsection (a), the clerk shall collect from the party filing the action the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A document storage fee (IC 33-37-5-20).
- (3) An automated record keeping fee (IC 33-37-5-21).
- (4) A public defense administration fee (IC 33-37-5-21.2).
- (5) A judicial insurance adjustment fee (IC 33-37-5-25).
- (6) A judicial salaries fee (IC 33-37-5-26).
- (7) A court administration fee (IC 33-37-5-27).

(c) A clerk may not collect a court costs fee for the filing of the following exempted actions:

- (1) Petition to open a safety deposit box.
- (2) Filing an inheritance tax return, unless proceedings other than the court's approval of the return become necessary.
- (3) Offering a will for probate under IC 29-1-7, unless proceedings other than admitting the will to probate become necessary."

Page 11, between lines 36 and 37, begin a new paragraph and insert:
"SECTION 21. [EFFECTIVE UPON PASSAGE] (a) The thirty-third and thirty-fourth judges of the Marion superior court added by IC 33-33-49-6, as amended by this act, shall be elected at the general election on November 7, 2006, for terms beginning January 1, 2007, and ending December 31, 2012. At the primary election held in 2006, a political party may nominate not more than nine (9) candidates for judge of the court. A political party may nominate one (1) additional candidate to be elected judge of the

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court at the 2006 general election using the candidate vacancy provisions under IC 3-13-1 for a total of not more than ten (10) candidates for judge of the court. Other candidates may qualify under IC 3-8-6 to be voted on at the general election. The candidates shall be voted on at the general election. At the 2006 general election, persons eligible to vote at the general election may vote for nineteen (19) candidates for judge of the court.

(b) The thirty-fifth and thirty-sixth judges of the Marion superior court added by IC 33-33-49-6, as amended by this act, shall be elected at the general election on November 4, 2008, for terms beginning January 1, 2009, and ending December 31, 2014. At the primary election held in 2008, a political party may nominate not more than nine (9) candidates for judge of the court. Other candidates may qualify under IC 3-8-6 to be voted on at the general election. The candidates shall be voted on at the general election. At the 2008 general election, persons eligible to vote at the general election may vote for seventeen (17) candidates for judge of the court.

(c) This act may not be construed to affect the term of any judge serving on the Marion superior court on the effective date of this act.

(d) This SECTION expires January 2, 2015."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1156 as printed January 18, 2006.)

ESPICH, Chair

Committee Vote: yeas 16, nays 3.

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